

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

Crl.Rev.Pet.No. 519 of 1999(A)

**CRA.94/1997 of IST ADDL. SESSIONS COURT, THRISSUR DT.16.6.1999.
CC.161/1993 of JUDL. MAGISTRATE OF FIRST CLASS COURT, IRINJALAKUDA**

.....

REVN. PETITIONER: APPELLANTS. ACCUSED

- 1. RAGHAVAN @ REGUNATHAN,
S/O.PERUMBILLI VELAYUDHAN NAIR,
NANDIPULAM.**
- 2. RADHAKRISHNAN,
S/O.CHITTATH KATTIL JANAKI AMMA
NANDIPULAM.**
- 3. VENU, S/O.CHITTATH KATTIL JANAKI AMMA
NANDIPULAM.**
- 4. SUBRAN,
S.O.PATIKATAN VELAYUDHAN,
NANDIPULAM.**
- 5. GOPI,
S/O.NANDIKADAN AYYAPPAN,
NANDIPULAM.**
- 6. UNNIKRISHNAN, S/O.PRAKKAL BHASKARAN,
NANDIPULAM.**
- 7. RATHESAN, S/O. KUMARAMCHIRA
MADAM NARAYANANKUTTY,
NANDIPULAM.**

**BY ADV. SRI.P.VIJAYA BHANU
SRI.S.R.MANOJ**

RESPONDENT/ RESPONDENT / COMPLAINANT

**STATE OF KERALA, REP.BY
PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 18/06/2007 , THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

K.R. UDAYABHANU, J.

CRL.R.P.NO.519 of 1999

DATED THIS THE 18th June 2007

ORDER

The revision petitioners stand convicted for the offence under Sections 143,147,148,341,323,324 read with Section 149 I.P.C. and sentenced to undergo simple imprisonment for one month each for the offence under Section 324 IPC. They are sentenced to pay a fine of Rs.500/- each for the offence under Section 143 and in default to undergo simple imprisonment for one month each and to pay a fine of Rs.500/- each for the offence under Section 341 IPC and in default to undergo simple imprisonment for five days each. No separate sentence was awarded for the offence under Section 323 read with Section 149 IPC.

2. The prosecution case is that the de facto complainant who is the President of the Co-Operative Bank was waylaid and beaten up by the accused on 2-6-1993 at 1 p.m. near Nandipulam Junction while he was proceeding on scooter. It is alleged that A2 in the same transaction beat him with a lathi on

his neck and right eye-brow. The rest of the accused fisted and kicked him. The evidence adduced in the matter consisted of the testimony of Pws.1 to 15, Exts.P1 to P5 and MO.1 lathi. PW1, the injured and Pws.2, 3 and 4, the occurrence witnesses, have testified in support of the prosecution version. Pws.5 to 9, the rest of the occurrence witnesses turned hostile. PW14, the Doctor who issued P4 wound certificate, has testified in proof of the same. Pw1 was admitted in the hospital soon after the incident. The injuries noted are contusion over the centre of forehead, contusion below right eye, abrasion on the right eyelid and left side of neck, contusion right forearm. The courts below have concurrently found that the evidence of Pws.1 to 4 established beyond reasonable doubt the prosecution version. No contradictions with respect to the previous statement of the above witnesses have been brought out. The only point that is seen raised before the appellate court is that there is an inconsistency with respect to the scene of occurrence. In Ext.P4 wound certificate the place of occurrence is stated as Co-Operative Bank at Nandipulam, but in Ext.P1 and in the evidence

of PW1, it is stated that the incident took place at Nandipulam Junction. The prosecution version is that the incident took place at Nandipulam Junction. The appellate court has considered the above aspect. The version noted by the Doctor in Ext.P4 is that the incident took place at Co-Operative Bank. I find that the above contradiction has not been put to PW1 in the cross examination. In the circumstances, I find that the above statement in Ext.P4 would certificate with respect to the alleged cause of injury in the absence of affording opportunity to PW1 to explain the same, cannot be treated as a factor in favour of the accused. In the circumstances and in the light of the evidence adduced, I find no reason to interfere in the findings of the courts below in exercise of the revisional jurisdiction. The conviction is confirmed.

Considering the plea of the counsel for the revision petitioner for leniency in sentence, in view of the fact that the incident has taken place in 1993 and more than a decade has elapsed since then and the accused was facing the criminal proceedings so far, I find that the sentence is liable to be

modified. In the circumstances, for the offence under Section 324 read with Section 149, the sentence is modified to imprisonment till the rising of the court and to pay a compensation of Rs.5,000/- each under Section 357(3) Cr.P.C. to PW1, the de facto complainant and in default to undergo simple imprisonment for three months each . The revision petitioner shall appear before the Judicial First Class Magistrate, Irinjalakuda on 30-7-2007 to receive sentence. The Crl.revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P.NO.519 of 1999

ORDER

18-6-2007

ORDER ON CRL.M.P. NO. 2240 OF 1999 IN CRL.R.P.NO. 519 OF 1999

DISMISSED.

18-6-2007

SD/-K.R.UDAYABHANU, JUDGE

TRUE COPY

P.S.TO JUDGE